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AUTHOR Riddle, Wayne; And Others
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ABSTRACT

This report summarizes the provisions of the Education Amendments of 1978, Public Law 95-561. This legislation extends generally through fiscal year 1983 and amends the major federal programs of aid to elementary and secondary schools including those under the Elementary and Secondary Education Act, the Impact Aid acts, the Emergency School Aid Act, the Adult Education Act, the Indian Education Act, and related legislation. (Author/LD)

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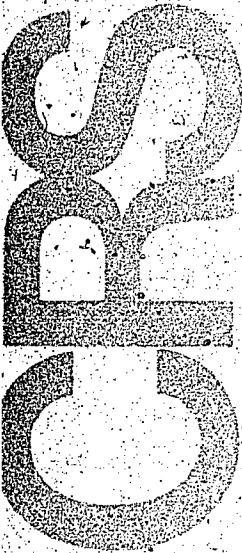
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SUMMARY OF THE EDUCATION AMENDMENTS
OF 1978, PUBLIC LAW 95-561

by

Wayne Riddle
Analyst in Education
Angela Evans
Analyst in Education
Bob Lyke
Analyst in Education
Mark Wolfe
Analyst in Education
Education and Public Welfare Division



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SUMMARY

This report is a summary of the provisions of the Education Amendments of 1978, Public Law 95-561. This legislation extends (generally through fiscal year 1983) and amends the major Federal programs of aid to elementary and secondary education, including those under the Elementary and Secondary Education Act, the "Impact Aid" acts (P.L. 815 and 874, 81st Congress), the Emergency School Aid Act, the Adult Education Act, the Indian Education Act, and related legislation.

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SUMMARY OF THE EDUCATION AMENDMENTS OF 1978, P.L. 95-561

^{1/}
Title I - Amendment to Title I of the Elementary and Secondary Education Act of 1965

Title I -- Financial Assistance to Meet Special Educational Needs of Children -- of the Elementary and Secondary Education Act of 1965 (ESEA; P.L. 89-10, as amended) is amended and extended through fiscal year 1983. The amendments to ESEA Title I in P.L. 95-561 are extensive, and may be divided into three categories:

- (1) modification of formula and other allocation provisions for programs previously authorized;
- (2) addition of new programs; and
- (3) reorganization and elaboration of existing provisions for the administration of Title I programs.

Discussion of each of these topics follows.

Modification of Allocation

Provisions of Programs

Previously Authorized

The allocation formula for Title I basic grants to local educational agencies (the largest of the Title I programs) is based upon a calculation of the maximum payment to each local educational agency (LEA) as follows: The "formula eligible population" for the LEA is multiplied by the "cost factor" for the State, with a minimum grant or "hold harmless" applied equal to 85 percent of the previous year allocation. Previous to the

^{1/} Unless otherwise noted, Title, Part, or Section numbers referred to in headings of this summary are those of P.L. 95-561, not of legislation amended by P.L. 95-561.

enactment of P.L. 95-561, the "formula eligible population" was equal to — children, aged 5-17, in poverty families ("Orshansky" criteria), according to the most recent Census; two-thirds of the number of children, aged 5-17, in families receiving Aid to Families with Dependent Children (AFDC) payments in excess of the poverty level (for a non-farm family of four); plus children, aged 5-17, living in foster homes or in institutions for the neglected or delinquent, for whose education the LEA is responsible.

P.L. 95-561 amends the "formula eligible population" in two respects, beginning with payments for fiscal year 1980. First, counts of children in families receiving AFDC payments above the poverty level, will no longer be reduced by one-third (they will be counted in full). Second, of any funds available for LEA basic grants in excess of the amounts available for such grants for fiscal year (FY) 1979, one half would be allocated to States on the basis of a different count of "formula eligible population". This count, to be used as a basis for allocation of 50 percent of "new" LEA basic grant funds beginning in FY 1980, is the number of children, aged 5-17, in families with income below 50 percent of the median (National) income for four-person families, according to the 1975 Survey of Income and Education (SIE; conducted by the Bureau of the Census). Allocation of such funds to LEA's would be on the basis of each LEA's share of the State total of "formula eligible population" under the earlier definition (with AFDC children counted in full). The other 50 percent of "new" LEA basic grant funds available for FY 1980 and beyond — which is not allocated on the basis of the Survey of Income and Education data — is to be allocated according

to the same formula as described earlier. Thus, beginning with payments made for FY 1980, the "formula eligible population" used for allocation of Title I LEA basic grants will be as described below.

Formula Eligible Population for Allocation
of LEA Basic Grants Under Title I, ESEA,
Beginning with Payments for FY 1980

<u>Portion of LEA Basic Grant Funds</u>	<u>Formula Eligible Population for Allocation to States</u>	<u>Formula Eligible Population for Allocation to LEA's (Counties) 2/</u>
An amount equal to FY 1979 LEA basic grant allocations	Allocation based directly on LEA (county) data	Poverty children (Census) plus children in families receiving AFDC payments above poverty level (full count), plus foster and neglected or delinquent children
50 percent of increase above FY 1979 level	Same as above	Same as above
50 percent of increase above FY 1979 level	Children in families with income below 50 percent of the median income for four-person families (1975 Survey of Income and Education)	Same as above

2/ Title I provides that allocations shall be made on the basis of county data if appropriate data are not available on an LEA basis. Thus far, the county data have been used each year.

The "cost factor" by which the counts of "formula eligible population" are multiplied for the purpose of allocating LEA basic grant funds ^{3/} is equal to the State average expenditure per pupil (current expenditures for public elementary and secondary education, for the third preceding year), with a floor of 80 percent and a ceiling of 120 percent of the National average. This expenditure level for each State is further multiplied by a "Federal share" of 40 percent. P.L. 95-561 modifies the "cost factor" only for Puerto Rico. Previously, the "cost factor" for Puerto Rico was the same as that for the States, except that the floor of 80 percent of the National average was not applied. Under P.L. 95-561, the Puerto Rico "cost factor" will be equal to 32 percent of the National average expenditure per pupil, multiplied by the quotient of the Puerto Rico average expenditure per pupil divided by the lowest of the average expenditure per pupil levels among the 50 States plus the District of Columbia. ^{4/} (Employing expenditure data used for FY 1979 allocations this would result in an increase for Puerto Rico from \$229.15 to \$299.96.)

Other allocation formula provisions modified under P.L. 95-561 are the following: the "hold harmless" level for the State agency grant programs (for migratory, handicapped, and neglected or delinquent children) is reduced from 100 percent of the previous year allocation to 85 percent (for the migratory program, however, this reduction does not take effect until FY 1983); the maximum level for funds reserved

^{3/} The "cost factor" as defined is also applied in Title I State agency programs.

^{4/} A ceiling is placed on Title I grants to Puerto Rico of 150 percent of previous year allocations.

for State administration is increased from 1 percent of each State's allocation or \$150,000 (whichever is greater; \$25,000 for each of the Territories) to 1.5 percent of the allocation or \$225,000 (whichever is greater; \$50,000 for each of the Territories) -- provided that the increased funds are used only for monitoring, audit resolution, and similar compliance activities;^{5/} and provision is made for increased LEA basic grants to the Territories.

New Title I Programs

Two major new Title I programs authorizing assistance to supplement LEA basic grants are provided for under P.L. 95-561. One, under a new Sec. 116 of the ESEA, is a matching grant program of Special Incentive Grants to LEA's in States with state programs of compensatory education. The maximum authorized level of such grants to each State is equal to 50 percent of State funds expended in the most recent fiscal year for which data are available; with no State to receive more than 10 percent of total appropriations for any year. In order for Federal matching grants to be authorized, the State compensatory education program must meet several requirements -- the primary one being that not less than 50 percent of the funds expended in the preceding fiscal year in each LEA were expended in school attendance areas having high concentrations of children from low-income families. State allocations under this program are to be distributed to LEA's in the same proportions as are LEA basic grants in the State. The Special Incentive Grant

^{5/} These funds may not be reserved if appropriations for this purpose are made available under ESEA Title V; see discussion under Title V, below.

program is authorized for fiscal years 1980-1983.^{6/} Each State would receive a minimum grant under this program equal to its grant for the preceding year, if applicable State expenditures for compensatory education are not reduced.

Under a new Sec. 117 of the ESEA is authorized a program of Grants to Local Educational Agencies in Counties With Especially High Concentrations of Children From Low Income Families. Eligibility for funds under this program is based upon the number or proportion (in relation to total population aged 5-17) of Title I LEA basic grant "formula eligible population" (poverty plus AFDC plus foster and neglected/delinquent children-- see earlier description) in the county in which an LEA is located. An LEA is eligible for a "concentration grant" if the number of such children in its county exceeds 5,000 or if the proportion exceeds 20 percent, for the preceding fiscal year.

Concentration grant eligibility levels are calculated on a county basis. For each county, the amount is based on a calculation of: the number of children in excess of the 5,000 or 20 percent threshold(s) (if both thresholds are met, then the greater of the two alternative counts of children above the threshold) multiplied by a special "cost factor" used for this program only.^{7/} The allocation to a county is the same proportion of the National total of available appropriations,

6/ According to the National Advisory Council on the Education of Disadvantaged Children (annual report, 1977, p. 90), in 1976, 16 States appropriated funds for compensatory education programs. It is not known how many of these would qualify for matching grants under ESEA Title I, Sec. 116.

7/ This concentration grant "cost factor" is equal to the county total of LEA basic grants for the current fiscal year, divided by the county total of LEA basic grant "formula eligible population" for the preceding fiscal year.

as is the county's proportion of the product (children above threshold times "cost factor") described above for all counties in the Nation.

Thus,

$$\text{County allocation} = \frac{\text{National total appropriation} \times \text{Children above threshold} \times \text{"cost factor" for county}}{\text{National sum of product of children above threshold} \times \text{"cost factor" for all counties.}}$$

An exception to the above allocation determination process is a State minimum requirement. The total of concentration grant allocations to counties in each State must be equal to at least .25 percent of total appropriations for this program. (If the total appropriation for concentration grants were \$400 million, this would provide a State minimum grant of \$1 million. CRS estimates that this provision would affect 15 small States if the program were funded for FY 1979.)

Funds will be distributed to LEA's within counties by each State education agency, on the basis of each LEA's share of the county total of children from low-income families.^{8/} If the proportion of such children in an LEA (in comparison with total population aged 5-17) is less than 20 percent, then in calculating the proportion of the county total of children from low-income families, the LEA child count shall be reduced by the following ratio: LEA proportion of children from low-income families divided by .20. (Hence, if the proportion of children from low-income families in an LEA is 10 percent, then the count of such

^{8/} These LEA-level counts are based upon definitions of low income determined by the State education agencies. Such counts are also used for distribution of LEA basic grant funds to LEA's, under current practice.

children used for the purpose of distributing a county concentration grant allocation to the LEA would be reduced by .10/.20, or 1/2.)

The concentration grant program is authorized for fiscal years 1979-1983, at a maximum level of \$400 million for FY 1979 and "such sums as may be necessary" for the succeeding years. As with the Special Incentive Grant program, funds received by an LEA would be added to the LEA basic grant and used for the same purposes — i.e., at the LEA level these would not be separate programs but rather funding supplements to the existing LEA basic grant program.

Other new authorizations for Title I programs in P.L. 95-561 include: grants for coordination of migrant education activities (Sec. 143 of ESEA); grants "to facilitate the transition of children from State operated institutions for neglected and delinquent children into locally operated programs" (Sec. 153 of ESEA); and assistance to increase parental involvement in Title I programs (Sec. 125 of ESEA).

Reorganization and Elaboration of Existing Title I Administrative Provisions

Under P.L. 95-561, the administrative provisions of ESEA Title I are rewritten in their entirety. All provisions for local, State, and Federal administration of Title I programs are reorganized, and integrated with both new administrative provisions as well as certain provisions which were previously contained in regulations or guidelines -- but not in the authorizing legislation -- for Title I. The new provisions which were either not previously contained in Title I legislation or which are substantially modified under P.L. 95-561, may be divided into the following categories:

- provisions regarding program monitoring, audits or complaints, and their resolution; the enforcement of regulations, and the publication of a Title I policy manual;
- requirements for program design and implementation, including those regarding children to be served, designation of school attendance areas, individualized educational plans, performance of non-instructional duties by Title I teachers, and for accountability and parental involvement;
- limited exemptions from excess costs, comparability, and supplement - not supplant - requirements, and for school-wide Title I projects; and
- authorization for a study of alternatives for demonstrating comparability in Title I programs (Sec. 102).

Title II -- Establishment of a New Title II of the Elementary and Secondary Education Act of 1965

The previous Title II of the ESEA -- School Library Resources, Text-^{9/}books, and Other Instructional Materials -- is replaced by a new program entitled Basic Skills Improvement, which includes both certain activities previously authorized under the National Reading Improvement Program (Title VII of P.L. 93-380, as amended, which is repealed) and newly authorized activities.

Under Part A of Title II there is authorized a National Program of grants and contracts for the development and coordination of activities to improve instruction so that all children are able to master basic skills -- defined as including "reading, mathematics, and effective communication, both written and oral" (Sec. 201(1)). Specifically authorized are assistance to encourage parental participation, the use of technology in basic skills instruction, involvement of educational

^{9/} Under provisions of Sec. 401 of P.L. 93-380, activities under ESEA Title II had been consolidated into those of ESEA Title IV, and Title II has not been funded since FY 1975.

agencies and private organizations, and coordination of Federal programs in this area. The authorization level for Part A is "such sums as may be necessary" for fiscal years 1980-1983.^{10/}

Part B provides authorization for a State Basic Skills Improvement Program, under which States may enter into an agreement with the Secretary of HEW to develop comprehensive Statewide plans for improving achievement in basic skills, and for State leadership and training activities to prepare personnel for basic skills instruction. The authorization level for Part B is also "such sums as may be necessary" for fiscal years 1980-1983; any funds available for comprehensive Statewide plans for basic skills improvement are to be distributed among applicant States on the basis of population aged 5-17, with no State to receive less than \$50,000 per year.

Part C of Title II -- Special Programs for Improving Basic Skills-- provides for an Inexpensive Book Distribution Program for Reading Motivation^{11/} (previously authorized under Title VII of P.L. 93-380), and a Special Mathematics Program for instruction in advanced mathematics for educationally disadvantaged children eligible for assistance under Titles I and VI of ESEA.

^{10/} Of any funds appropriated for Parts A and B of Title II for any year, the first \$20 million would be used for activities under Part A, and the remainder for Part B.

^{11/} At the following authorization levels: FY 1979 - \$9 million, FY 1980 - \$10 million, FY 1981 - \$11 million, FY 1982, and FY 1983 - \$12 million each year.

Title III - Establishment of a New Title III of the Elementary and Secondary Education Act of 1965

As with Title II, the previous Title III of ESEA -- Supplementary Educational Centers and Services; Guidance, Counseling, and Testing ^{12/} -- is replaced by a new Title III entitled Special Projects. The new Title III is essentially an amended version of parts of the Special Projects Act (Sec. 402 of P.L. 93-380, as amended), and the Environmental Education Act (P.L. 91-516, as amended), which are now incorporated into the ESEA.

ESEA Title III consists of General Provisions (Part A) plus twelve individual programs (under Parts B through M) under which Federal aid is authorized for the development of curricula, operation of demonstration projects, dissemination of information, and similar activities regarding a specific area of educational concern.

Part A contains general authority for grants and contracts under Title III; and authority for the Commissioner of Education to reserve up to 10 percent of the funds appropriated for this Title ^{13/} for discretionary projects. The specific programs authorized under Title III are listed below, including appropriation authorization levels for each.

^{12/} As with Title II of ESEA, Title III had been consolidated into Parts B and C of ESEA Title IV, under the provisions of Sec. 401, P.L. 93-380. Title III also has not been funded since FY 1975.

^{13/} Except funds for energy conservation projects under Sec. 303(C)(1).

Specific Programs Under ESEA Title III - Special Projects

<u>Part</u>	<u>Program</u>	<u>Authorization Level</u>	<u>Year(s)</u>
B	Metric Education	\$20 million	FY 1979-1983
C	Arts in Education	\$20 million	FY 1979-1983
D	Preschool Partnership Programs	Not less than 10% of the Commissioner's discretionary funds	(not specified)
E	Consumer Education	Not less than \$5 million each year from the Commissioner's discretionary funds	(not specified)
F	Youth Employment	\$ 7.5 million	FY 1979-1983
G	Law-Related Education	\$15 million	FY 1979-1983
H	Environmental Education	\$ 5 million \$ 7 million \$ 9 million \$11 million \$13 million	FY 1979 FY 1980 FY 1981 FY 1982 FY 1983
I	Health Education	\$10 million	FY 1979-1983
J	Correction Education	\$ 5 million	FY 1979-1983
K	Dissemination of Information	Not less than 5% of the Commissioner's discretionary funds	(not specified)
L	Biomedical Sciences	\$40 million	1979-1983
M	Population Education	Not less than 10% of the Commissioner's discretionary funds	(not specified)

Title IV - Amendment to Title IV of the Elementary and Secondary Education Act of 1965

Title IV of the ESEA -- now entitled Educational Improvement, Resources, and Support -- is amended, and extended through fiscal year 1983, at an authorization level of "such sums as may be necessary" (except for Part D -- see below). Although Title IV is entirely re-written, the modifications to Title IV -- other than the addition of a new Part D -- are, in general, not major.

As before, appropriations for each Part of Title IV are to be allocated to States on the basis of population aged 5-17; with a separate authorization for appropriation of the level of funds necessary to assure that no State receives a Title IV allocation which is below its FY 1974 appropriation for the previous categorical programs which were consolidated into Title IV. No funds may be appropriated for any Part under Title IV unless: these funds are provided as an advance appropriation (hence, in an appropriations act for the prior fiscal year) and the amount appropriated for each Part is at least equal to the amount appropriated for that Part for the preceding year. If the above requirements are not met for any fiscal year, the Commissioner is to carry out the previous programs which were consolidated into ESEA Title IV (under Sec. 401 of the Education Amendments of 1974, P.L. 93-380), as these programs were in effect for fiscal year 1978.

Assistance for the purchase of Instructional Materials and School Library Resources continues to be authorized under Part B of Title IV. These funds are to be allocated to LEA's on the basis of enrollments, with adjustments made to provide higher amounts per pupil to LEA's with:

- (1) a level of tax effort above the State average, yet a level of average expenditures per pupil which is no greater than the State average; or
- (2) the greatest numbers or proportions of children whose education involves higher-than-average costs (such as children from low-income families).

Part C of the ESEA -- Improvement in Local Educational Practices -- contains authorization for development and demonstration projects "designed to address serious educational problems in elementary and secondary schools" (Sec. 431(a)(1)). Such activities may include: innovative compensatory education programs;^{14/} encouragement of parental participation in education programs; early childhood and family education programs; programs to increase the use of educational resources in the community at large; development and implementation of model plans to improve school management;^{15/} and programs to diagnose learning problems and assess the educational achievement of children. Grants to LEA's under Part C are to be made by the State education agencies, on a project approval basis. Grants to LEA's are to be made for a period of no more than 5 years, with the amount of the grant to decline after the third year. At least 15 percent of funds received under Part C must be devoted to special programs for the education of handicapped children. No application for Part C assistance shall be approved unless the needs of non-public school children in the locality have been taken into account.

^{14/} Not less than 50 percent of Part C allocations in excess of the FY 1979 level must be used for this purpose.

^{15/} The following proportions of Part C allocations in excess of the FY 1979 level must be used for this purpose: 5 percent in FY 1980, 10 percent in FY 1981 and thereafter.

P.L. 95-561 provides for a new Part D of ESEA Title IV -- Guidance, Counseling, and Testing. Funds for these purposes were previously provided under Title IV, Part B. The appropriations authorization level for Part D is \$50 million for each of fiscal years 1980-1983; and appropriations must equal a minimum of \$18 million in order for the program to take effect.

Under Part D, grants are to be made for comprehensive guidance, counseling, and testing programs in elementary and secondary schools; and for State leadership and supervisory services in these areas.^{16/}

As with ESEA Title I, States are authorized to reserve specified portions of Title IV appropriations for purposes of State administration, only if the provisions for State administration grants under ESEA Title V (see below) are not funded. Finally, provisions for participation of children attending non-public schools in Title IV programs are elaborated.

Title V - Establishment of a New Title V of the Elementary and Secondary Education Act of 1965

As with Titles II and III of the ESEA, Title V -- Strengthening State and Local Educational Agencies -- was authorized previous to the enactment of P.L. 95-561, but had been consolidated into ESEA Title IV (under Sec. 401, P.L. 93-380) and had not been funded since FY 1975. The Education Amendments of 1978 provide for a new Title V -- State Leadership -- under which grants are authorized for both State administration of ESEA programs and improving the resources of State education agencies.

^{16/} Up to 7.5 percent of each State's Part D allocation may be reserved for this purpose.

Part A of Title V -- Administration of Education Programs and Duties of the State Educational Agency -- contains requirements regarding, and authorizing payments for State administration of ESEA programs. Included are provisions for: a single application by each State for assistance under Titles I and IV of the ESEA; a single application by LEA's for assistance through all ESEA programs under which funds are made available via State education agencies; technical assistance and dissemination of information; program monitoring; complaint resolution; audits and the withholding of payments to LEA's.

For the purpose of State administration payments under Title V, Part A "such sums as may be necessary" are authorized to be appropriated for fiscal years 1979-1983. The maximum payment authorized to be made to each State is equal to the greater of:

1. 1.75 percent of allocations to the State under ESEA Titles I and IV; or
2. \$550,000 (\$87,500 for each of the Territories).

The State administration payment is not to be less than the amount received for this purpose for fiscal year 1978. In order for these payments under Title V, Part A to be made, the amount appropriated must be sufficient to pay the full amount authorized above, and the appropriations must be made on an advance basis (provided in an appropriations act for the preceding fiscal year). As noted earlier, if State administration payments are made under this Part, such payments may not be made under the separate authorizations found in ESEA Titles I and IV. Additional payments are also authorized equal to a maximum of 25 percent of the State administration payments noted above, if such additional funds are

used specifically for the purposes of monitoring, audit resolution, enforcement, and related activities.

Part B of Title V, Strengthening State Educational Agency Management, contains authorization for grants to State education agencies to improve their leadership resources. Among the activities which may be assisted under Part B are: development of more equitable school finance methods; development of Statewide achievement assessment programs; provision of technical assistance to LEA's; coordination of public education programs with those in non-public schools; monitoring the participation of non-public school pupils in Federal education programs; professional development of State agency staff; and dissemination of information regarding effective educational practices.

"Such sums as may be necessary" are authorized to be appropriated for Part B, for fiscal years 1980-1983. However, no funds may be appropriated for Title V, Part B unless the amount is equal to a minimum of 15 percent of the appropriation for ESEA Title IV, Part C for that year, and the funds are appropriated on an advance basis (and made available prior to the beginning of the fiscal year for which they are appropriated).

Title V also includes a Part C entitled, Councils on Quality in Education. A National Council on Quality in Education is "established", consisting of 15 members appointed by the President (to be confirmed by the Senate) for 3-year terms. The responsibilities of the National Council include: reviewing the administration of Federal education programs; advising Federal officials on the Nation's educational goals and

and needs; conducting evaluations of education programs; conducting conferences on educational assessment and improvement; and providing comparative analyses of educational systems in foreign countries.

The National Council shall make an annual report to the Congress and the President. State advisory councils are also authorized, for any State receiving payments under Title V, with analogous responsibilities at the State level. Up to 2.5 percent of the amount otherwise appropriated for Title V each year is authorized to be appropriated for Part C.

Title VI - Emergency School Aid

P.L. 95-561 revises and extends the Emergency School Aid Act (ESAA), making it for the first time part of the Elementary and Secondary Education Act. The changes are not effective until fiscal year 1980: prior to then, with two exceptions, ESAA is to continue under authorizations contained in previous laws (ESAA was originally authorized in Title VII of P.L. 92-318, the Education Amendments of 1972, but a number of revisions were made in subsequent laws). The two exceptions are that P.L. 95-561 authorizes fiscal year 1979 appropriations of \$100 million for special programs and projects and \$50 million for magnet schools, neutral site schools, and the pairing of schools with colleges and businesses.

In the summary of ESAA that follows, the provisions described are those that become effective in fiscal year 1980. Where appropriate, major changes from previous law are noted.

ESAA provides financial assistance for two purposes: to meet needs occasioned by the elimination of student and faculty minority group segregation and discrimination, and to encourage voluntary reduction or prevention of minority group isolation in schools. (In previous law there was also a third purpose: to aid students in overcoming the educational disadvantages of minority group isolation).

The term "minority group" refers to American Indians, Alaskan Natives, Asians and Pacific Islanders, blacks, Hispanics, Portuguese, Franco-Americans, and certain people whose dominant language is other than English (under previous law Franco-Americans were not included.)

ESAA authorizes a number of different kinds of grants, each of which will be discussed in the following order:

- basic grants
- special program and project grants (including grants for magnet schools, neutral site schools, the pairing of schools with colleges and businesses, voluntary plans, and educational television and radio);
- nonprofit organization grants
- planning grants
- metropolitan area project grants
- evaluation grants
- follow-the-child grants

Only for basic grants are funds allocated by statutory formula; for the others, grants are made on the basis of national competition. Only special program and project grants (though not grants for voluntary plans) may be used in Puerto Rico or the Territories. For all grants, the District of Columbia is considered as a State.

Basic Grants are to be used for a wide variety of activities such as hiring and training staff members, developing new curricula, innovative educational and extracurricular activities, compensatory education for certain children, repairing or remodeling facilities, community relations, planning, evaluation, etc. They are available to eligible local educational agencies (see below for how eligibility is determined). Appropriations of \$155 million are authorized for fiscal year 1980 and each of the three succeeding fiscal years (in previous law, basic grants received about 64 percent of the annual regular ESAA appropriation, which in practice yielded a somewhat larger sum). From the amount actually appropriated, each State is apportioned \$75,000 plus an amount from the remaining sum which represents that State's proportion of the number of minority group children aged 5 through 17 in the country. Each State is guaranteed a minimum of \$100,000, though if that exceeds the amount that is required the excess may be used elsewhere. (Under previous law there was other money equal to fifteen percent of the total regular ESAA appropriation which also was apportioned among the States by the same formula used for basic grants. Grants made with this money, called pilot grants, were for unusually promising programs and projects in local educational agencies with concentrations of minority group students.)

Special program and project grants are to be used for such things as planning, designing, and conducting programs in magnet schools; developing plans for neutral site schools; pairing schools with colleges and businesses; helping to meet the needs of minority group children of limited English language proficiency; developing and producing integrated television and radio programs; and planning and providing technical assistance for voluntary plans to eliminate or reduce minority group isolation. These grants are available

to State educational agencies (only these may apply for voluntary plan grants), public and private nonprofit organizations (only these may apply for educational television and radio) and eligible local educational agencies. For fiscal year 1980 and each of the succeeding fiscal years appropriations of \$245 million are authorized for all these grants. However, from the amount actually appropriated various sums are reserved for particular purposes. Twenty-five percent of the total ESAA appropriation or \$20 million, whichever is greater, is reserved for magnet schools, neutral site schools, and the pairing of schools with colleges and universities; seven percent is reserved for educational television and radio grants, with not more than ten percent of such sums to be used for the latter; and a limited amount is reserved for voluntary plan grants (these are to equal two times what a given State spent on such activities in the preceding fiscal year, though they are not to exceed \$500,000 per State or ten percent of the State's basic grant apportionment, whichever is greater. In addition, part of whatever is appropriated for special programs and projects is also to be used for evaluation grants, planning grants, and metropolitan area project grants. (A separate ESAA bilingual education grant program in previous law was transferred by P.L. 95-561 to Title VII ESEA, the Bilingual Education Act; similarly, special program and project grants for mathematics were transferred to Title II ESEA. In previous law there were no grants for voluntary plans, nor were there grants for educational radio. Total authorizations were different, as were the set-asides).

Nonprofit organization grants are to be used for supporting the development or implementation of qualifying plans local educational agencies must have to receive ESAA Support (see below). The grants are available

to public and private nonprofit organizations but not to local educational agencies. For fiscal year 1980 and each of the three succeeding fiscal years appropriations of \$15 million a year are authorized. (Under previous law funds for these grants were to equal eight percent of the regular ESAA appropriations; they were allocated by the same formula used for basic grants. In addition, under previous law for half of the available funds nonpublic schools could not submit applications.)

Planning grants are to be used for helping with the development of a certain qualifying plan (see below). These grants are funded from the appropriations authorized for special programs and projects and are available only to local educational agencies. (Previous law did not authorize planning grants.)

Metropolitan area project grants are to be used to help local educational agencies working together in a metropolitan area establish and maintain integrated schools or reduce and eliminate minority group isolation. These grants are available to local educational agencies; they are funded from the appropriations authorized for special programs and projects.

Evaluation grants are for evaluating specific ESAA programs and projects. They are available to State educational agencies, institutions of higher education, private organizations, and the committees of parents, teachers, and students. Local educational agencies must have to receive to receive ESAA support (see below). Evaluation grants are funded from the appropriations authorized for special programs and projects, though no more than one percent of all ESAA money is to be used for them.

Follow-the-child grants are to be used for providing compensatory education to students who previously received it under Title I-ESEA but who are no longer receiving it as a result of attendance area or enrollment changes under a qualifying plan implemented or ordered after August 21, 1974 (see below). The grants are available to eligible local educational agencies. For fiscal year 1980 and each of the three succeeding fiscal years appropriations of \$7.25 million and such additional sums as may be necessary are authorized (under previous law, no more than five percent of the money available for special programs and projects was to be used for such grants).

All local educational agencies receiving ESAA support must have one of five specified qualifying plans. In general these plans either must require student or faculty desegregation pursuant to a final order of a court or of a State agency or official or pursuant to approval by the Secretary of HEW under Title VI of the Civil Rights Act of 1964, or they must require the reduction or elimination of minority group isolation. Some of the plans specified are required, while others are voluntary. (P.L. 95-561 added one qualifying plan for which planning grants are available (see above), but it also deleted a qualifying plan dealing with establishing or maintaining integrated schools. Also added was a provision that one of the plans might require educational activities in minority group isolated schools where children are not being reassigned.)

In addition, local educational agency eligibility depends upon assurances in the applications that a number of requirements have or will be met. The requirements deal with such things as involvement of parents (for example, applications must be developed with the participation of

a committee of parents, teachers, and where applicable, secondary school students); uses of ESAA money (funds must be used only to pay the additional costs of programs or projects); other Federal programs (there must be coordination with other Federal funds); nonpublic schools (in some circumstances private nonprofit schools must participate); evaluations (these must include the objective measurement of changes in educational achievement); and so on.

No State or local educational agency is eligible for ESAA assistance if after June 23, 1972 it discriminated against students or employees or if it transferred property or provided services to nonpublic schools without first determining that they were not racially segregated or had not practiced discrimination. Local educational agencies may request that these provisions be waived if they provide assurances that their violations have ceased and will not recur.

With respect to the proposed programs and projects, applications are to be judged on the basis of need for assistance and the degree to which they promise to achieve the purposes of the Act. With respect to the qualifying plans, applications are to be judged on the basis of the need for assistance, how recent it is, the degree to which it has or will decrease minority group isolation, and the degree to which it involves all the educational resources of the community. (Under previous law, weight was also given to the extent of minority group isolation per se and to the relative measurable deficiencies in the quality of education.) Local educational agency applications may cover a period of from one to five academic years (in previous law, applications could cover only one year).

(The authorization in previous law for a National Advisory Council on Equality of Educational Opportunity was not extended).

Title VII - Bilingual Education Programs

The Education Amendments of 1978 provide increased authorizations for the basic bilingual grants, training activities, and research and evaluation; and make several programmatic changes.

Program Eligibility: The definition of eligible participants is changed from children with limited English-speaking ability to those with limited English proficiency. By dropping the term "speaking" the emphasis on verbal proficiency is expanded to include reading and writing, as well. In addition, like prior law, the amendments allow the participation of English proficient children in the bilingual programs. However, these amendments limit the participation of the English proficient to not more than 40 percent of a class. The amendments strengthen the requirements for participation of nonpublic school children in bilingual programs by requiring the participation of these children to the extent consistent with their numbers, and on a comparable basis to the public school children. The Commissioner of Education is also authorized to withhold approval of a basic grant if the applicant agency is not in compliance with the requirements for the participation of nonpublic school children.

Authorization of Appropriations: These amendments extend and expand authorizations for all programs under Title VII through FY 1983. Authorizations for the basic grant program increase from \$200 million

in FY 1979 to \$400 million in FY 1983. Authorizations are also increased for State grants for technical assistance from \$12 million in FY 1979 to \$16 million in FY 1981 and "such sums as may be necessary" in FY 1982 and FY 1983. The provision for a set-aside from the basic grant authorization for training activities when total program appropriations exceed \$70 million is amended. Prior to these amendments, one third of the appropriations over \$70 million was to be used for training; these amendments reduce this to 20 percent of the excess over \$70 million.

Parental Involvement: The amendments expand the provisions for parental involvement by requiring parental councils to participate in the development and operation of federally assisted bilingual education projects. New provisions are also added which require a recipient local educational agency to inform the parents of children participating in the program of the instructional goals of the bilingual program and the progress of their children in reaching these goals.

Application for the Federal Grant: These amendments permit local educational agency applications for Federal bilingual funds to be made for up to three years with amended applications permissible in the event program activities change. A new application is required if funding is sought for subsequent years. New provisions are added which require the applicant to demonstrate that receipt of the Federal funds will lead to a development of its capability to continue the program after the termination of Federal funding. The total length of time for which a program can receive funding is determined by the Commissioner of Education and is to be based on the severity of the need for bilingual programs and the

nature of the program activities. The Commissioner of Education may order a local education agency to prepare a plan for termination of assistance if the local agency does not have a long term need for continued assistance. This requirement is waived if a local educational agency demonstrates a clear fiscal inability to carry out a program and if there is a continuing presence of a substantial number of limited English proficient students or if the local educational agency is under a court order or a non-compliance suit to provide bilingual education services.

Local Program Restrictions: These amendments expand local responsibility in meeting the needs of the limited English proficient child by mandating certain program characteristics which must be present in the local programs. These include the following. The programs must use personnel proficient in the language of instruction and in English. Local projects must concentrate on those children most in need, requiring the local agency to set goals for these children and requiring the provision of necessary follow-up services for children leaving the bilingual program. [These follow-up services must be provided with State and local funds and sustain the achievements made by the child after he leaves the program.] In the case where a child has been in the program for two years, the agency must provide an individual evaluation establishing the need for continued services. The amendments also remove the requirement that 15 percent of the local program funds be used for in-service training of bilingual personnel. The exact degree to which the Federal funds will be used for in-service training is left to the discretion of the local agency.

Teacher Training: The amendments expand the provisions for teacher training fellowships to include requirements that each recipient of a fellowship must serve in the area of training for bilingual education teachers for the same period of time for which that person received funds, or must repay these funds.

Research and Development: The amendments delineate research responsibilities between the U.S. Office of Education, the National Institute of Education and the Assistant Secretary for Education. Authorizations for research and development increase from \$5 million in FY 1978 to \$20 million for each fiscal year 1979 to 1983. The amendments expand the authorized research and evaluation activities of all the agencies mentioned above and provide for the evaluation of effective models for bilingual/bicultural programs and the operation of a clearinghouse on information in bilingual education.

Instruction for Spanish Proficiency: In the case of Puerto Rico these amendments allow the use of Federal funds to serve limited Spanish proficient children who return to Puerto Rico from the mainland and who cannot function effectively in the schools due to their Spanish deficit.

Transfer of the Bilingual Provisions of the Emergency School Aid Act: These amendments transfer the bilingual education provisions of the Emergency School Aid Act to the Bilingual Education Act. A separate authorization of appropriations of \$15 million in FY 1980 increasing to \$30 million in FY 1983 is created for this program.

Title VIII - Establishment of a New Title VIII and a New Title IX of the Elementary and Secondary Education Act of 1965

Sec. 801 - Community Education Program Authorized

Previous to the enactment of P.L. 95-561, Title VIII of the ESEA contained General Provisions (including authorization for dropout prevention, nutrition and health, Indian education and consumers' education programs), while Title IX contained authorization for an Ethnic Heritage Program. Under Sec. 801 of P.L. 95-561, Title VIII of the ESEA is re-designated as Title IX,^{17/} and a new Title VIII -- Community Schools -- is established. Previous to the enactment of the Education Amendments of 1978, a Community Schools program was authorized under the Special Projects Act and under Sec. 405 of the Education Amendments of 1974 (P.L. 93-380). This program is now extended, amended, and integrated into the ESEA.

The stated purpose of the Community Schools program is to: facilitate the coordination of the delivery of social services to communities; provide for the efficient use of school facilities; and provide educational, recreational, cultural and other services through community education programs.

There are several specific authorizations in Title VIII; a summary of the authorization levels is provided later in this discussion of the Title.

Aid to State programs for community education is authorized, with available funds to be allocated to States on the basis of total population, with a minimum State grant of \$50,000 per year. These funds are to

^{17/} However, it is also provided that the individual Sections of the previous Title VIII be re-numbered as if they were to be included in a new Title X. Also, a new Title IX of the ESEA is separately created under P.L. 95-561 (see below).

be allocated to State education agencies, to pay the Federal share ^{18/} of the costs of planning or operating community education programs. Also authorized are grants to local educational agencies, if the programs to be assisted thereby hold "reasonable promise of success" (Sec. 809(a) of the ESEA) and provide for the identification of both the needs and the resources of the community, will serve all age groups in the community, and provide for an active advisory role for those to be served by the program. ^{19/}

The other specific programs authorized under the new Title VIII of the ESEA, as well as the appropriation authorization levels for the State and LEA programs, are summarized below.

^{18/} For FY 1979 - 80 percent, FY 1980 - 70 percent, FY 1981 - 50 percent, FY 1982 - 30 percent, and for FY 1983 - 20 percent.

^{19/} For these LEA grants, the Federal share is 90 percent for 1979 and 1980, and 80 percent for FY 1981-1983.

Appropriations Authorizations for Community Schools Programs, ESEA Title VIII

<u>Program</u>	<u>Authorization Level</u>	<u>Fiscal Year</u>
State programs	\$40 million	FY 1979
	\$50 million	FY 1980
	\$60 million	FY 1981
	\$50 million	FY 1982
	\$40 million	FY 1983
LEA Grants	\$20 million	FY 1979
	(\$25 million)	FY 1980) 20/
	(\$30 million)	FY 1981) 20/
	\$25 million	FY 1982
	\$20 million	FY 1983
Grants to public and non-public organizations for delivery of community services 21/	\$ 5 million	FY 1979
	\$ 7 million	FY 1980
	\$10 million	FY 1981
	\$ 7 million	FY 1982
	\$ 5 million	FY 1983
National leadership and planning	\$ 5 million	FY 1979-1983
Research	\$ 1 million	FY 1979-1983
Administration (including a Community Education Advisory Council)	\$ 2 million	FY 1979-1983

20/ These authorizations are not contained in the separate print of H. Rept. No. 95-1753, but are found in the version of the report printed in the Congressional Record (p. H12178, daily edition), and in the Public Law.

21/ The Federal share for grants to non-public organizations is 90% for FY 1979 and 1980, 80% for FY 1981 - 1983.

An unusual feature of the Community Schools legislation is that under Sec. 806, "notwithstanding any other provision of law", a recipient State or local public agency may use the "fair value" of a program assisted under this Title as part or all of the required non-Federal contribution under any of a number of other Federal programs.^{22/} Such use of the "fair value" of a program assisted under Title VIII is authorized if a portion of the other Federal program takes place in a building conducting a community education program under Title VIII, and there is a "necessary relationship" between the other program and those assisted under Title VIII.

Sec. 802 - Additional Programs Authorized

A new Title IX, Additional Programs for the ESEA is established, in which five separate programs are authorized. Two of those programs did not previously exist, while the others were previously authorized under the Special Projects Act, or under Title IX of the ESEA as it existed prior to the enactment of P.L. 95-561.

Under Part A is authorized a program for Gifted and Talented Children; such a program was previously authorized under the Special Projects Act and Sec. 404 of P.L. 93-380. For the purposes of this program, gifted and talented children are defined as those having demonstrated or potential abilities in intellectual, creative, academic, or leadership fields, or the performing or visual arts, and therefore require services not ordinarily provided by their school. The authorization level for the program is \$25 million for FY 1979, \$30 million for FY 1980, \$35 million

^{22/} A list of these programs may be found in Sec. 806(b) of the ESEA, as amended by P.L. 95-561.

for FY 1981, \$40 million for FY 1982, and \$50 million for FY 1983. For each year, either \$5 million or 25 percent of the funds appropriated (whichever is less) is to be reserved for discretionary programs, with the remainder to be devoted to grants for State programs. (Whenever total appropriations for Part A exceed \$15 million, State program funds are to be allocated to State education agencies on the basis of population aged 5-17, with no State to receive a grant of less than \$50,000.)

Under the State Programs provisions, grants may be made to State education agencies equal to 90 percent of the cost of planning, developing, or operating projects to meet the educational needs of gifted and talented children. Not less than 90 percent of the funds must be distributed to LEA's in the State, on a competitive basis; and at least 50 percent of the funds must be used for projects which include among their activities the identification and education of disadvantaged gifted and talented children from low-income families.

Grants may be made directly by the Commissioner under the Discretionary Programs authorization, for purposes to include the training of personnel, operation of model projects, support for a clearinghouse to disseminate information on the education of the gifted and talented, and research and evaluation activities (up to 20 percent of the funds available for discretionary programs may be transferred to the National Institute of Education for the latter purpose). Not more than 20 percent of the funds for Discretionary Programs may be used for grants to institutions of higher education for training of "National leadership personnel".^{23/}

^{23/} The Federal share of the costs of Discretionary Programs is 90 percent, except that for evaluation, research, or clearinghouse activities, or activities involving pupils attending non-public schools, it is 100 percent.

Beginning with the effective date of R.L. 95-561, no project funded under the gifted and talented program may receive such Federal assistance for more than five years.

Part B of ESEA Title IX -- Educational Proficiency Standards is a new program of grants to State education agencies (or LEA's in States in which the State agency does not apply for assistance) to implement educational proficiency standards established by such State (or local) agency. An application for assistance under this program is to include an "educational proficiency plan" with:

1. a description of the standards established by the applicant,
2. a description of the programs intended to assist students in achieving proficiency levels compatible with the standards,
3. provision for the administration of examinations to students, and
4. assurances that any student who fails such examinations will be offered supplementary instruction.

Grants under this program may be used either to continue existing proficiency plans, or to establish new ones.

In addition to the program of Grants to Implement Educational Proficiency Standards described above, there is also authorized a program of Achievement Testing Assistance. Under the latter program, support may be provided to educational agencies, institutions, or other organizations for dissemination of information, training of personnel, research, and evaluation regarding achievement testing. "Such sums as may be necessary" are authorized to be appropriated for fiscal years 1979-1983 for implementation grants, and 1980-1983 for achievement testing assistance.

The provisions of ESEA Title IX, Part B contain no authorization for the U.S. Commissioner of Education to impose tests on State or local education agencies, or to require specific tests or test questions.

Part C of ESEA Title IX is a program for Women's Educational Equity, previously authorized under the Special Projects Act and Sec. 408 of P.L. 93-380. The stated purposes of this program now include not only the provision of educational equity for women, but also financial assistance to meet the requirements of Title IX, Education Amendments of 1972 (P.L. 92-318) (prohibition of sex discrimination in federally assisted education programs). The authorization level is \$80 million for each of fiscal years 1980-1983.

Activities assisted under Part C may include: development and evaluation of curricula, research and development, guidance and counseling, educational activities specifically for adult women, educational personnel training, and expansion of opportunities for women in vocational education, career education, physical education, and educational administration. Grants may be made for activities of "local significance" for periods of no more than two years, for activities including those incident to compliance with Title IX, P.L. 92-318 (75 percent of such grants must be made to LEA's; appropriations for Part C in excess of \$15 million each year are to be used for this purpose). No prohibition of males from participating in activities funded under this Part is intended.

There is authorized a National Advisory Council on Women's Educational Programs, composed of seventeen persons appointed by the President

(and confirmed by the Senate), plus the Directors of the Civil Rights Commission, the Women's Bureau of the Department of Labor, and the Women's Action Program of the Department of HEW. The Commissioner is required to submit reports, at specified intervals, on the activities assisted under Part C.

Part D of ESEA Title IX provides authorization for Special Grants for Safe Schools, at a level of \$15 million for FY 1979 and "such sums as may be necessary" for FY 1980-1983. Fifteen LEA's are to be selected for assistance under this Part (such selection to occur within 180 days of the enactment of P.L. 95-561) by the Commissioner. Aid under this Part may be used for activities related to providing security in school facilities, and to encourage the reporting of serious crimes in schools to local law enforcement agencies.

Finally, Part E of ESEA Title IX is the Ethnic Heritage Program, previously the only program authorized under Title IX. Assistance is authorized to develop and disseminate instructional materials, or to train personnel for programs providing education in the history, culture, or traditions of ethnic groups. Included is an authorization for a National Advisory Council on Ethnic Heritage Studies. The level of authorized appropriations is \$15 million for each of fiscal years 1979-1983; with funds appropriated under this Part to remain available for expenditure and obligation through the end of the fiscal year succeeding the year for which they were appropriated.

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Title IX - Amendments Relating to General Provisions of the Elementary and Secondary Education Act of 1965

Provisions are added to Sec. 1004 of the ESEA under which the Commissioner is authorized to waive any of the requirements associated with programs under the Act for any of the Outlying Areas^{24/} whenever such requirements may be inappropriate due to circumstances particular to those areas. Also, such waivers may be granted for Puerto Rico only with respect to ESEA Title I, and only for the period through July 1, 1980.

Title X - Impact Aid Amendments

Part A -- Public Law 874

P.L. 81-874, Impact Aid, (payments for current operations and maintenance) which provides financial assistance to school districts affected by Federal activities, is extended through FY 1983 with a number of amendments principally affecting the provisions of Section 3 (children whose parents reside on, and/or children whose parents are employed on, Federal property). The P.L. 95-561 amendments are scheduled to take effect primarily in FY 1980.

The method for determining Section 3 entitlements and payments prior to the enactment of P.L. 95-561 is extended through the end of FY 1983, with some modifications. This method bases entitlements on the number of children in two categories: children of parents who work and live on Federal property (Section 3(a)); and children of parents who work or live on Federal property (Section 3(b)). Each of these two categories contains several

^{24/} Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

subcategories of eligible children, such as military, Indian-land, and public low rent housing. Section 3 entitlements are based on the number of such children in each subcategory multiplied by a percentage of the local revenue per pupil contribution rate for public elementary and secondary educational expenditures.

Should appropriations be insufficient to fully fund entitlements under Section 2 (Federal Acquisition of Real Property), 3, or 4 (Sudden and Substantial Increases in Attendance), then a three part "tier" or distributional payment system is applied. Tier I authorizes payment of 25 percent of Section 3 and 100 percent of Section 2 entitlements. Following full payment of Tier I, Tier II authorizes payment of an additional 63 to 65 percent of Section 3(a) entitlements, 28 to 32 percent of section 3(b) entitlements, and no percentage payment for low rent public housing entitlements. After full payment of Tiers I and II, Tier III provides that any remaining appropriations are to be allocated to any remaining unsatisfied entitlements under Sections 2, 3, and 4 in proportion to the unfunded entitlements for each.

In addition, for a school district to be eligible to receive a Section 3 payment, its total number of eligible children must constitute at least 400, or 3 percent of the children in average daily attendance (but at least 10 children).

Beginning in FY 1980, the P.L. 95-561 amendments modify the Tier II rate for making payments on Section 3 entitlements. (The Tiers I and III payment rates remain unchanged.)

Tier II, as amended, is divided into three parts which are to be funded in sequential order. First, 65 percent of the current Tier II

rate is to be paid after Tier I is funded. Second, a hold harmless guarantee is added providing a minimum payment of 90 percent of the previous fiscal year's Section 3 payment. Third, remaining funds are to be distributed among any unsatisfied Section 3 and Section 4 entitlements in accordance with appropriations Act (i.e., a specific distribution pattern is not mandated in the authorizing legislation). Also, the Tier II payment rate for Indian land children is increased to 75 percent of the local contribution rate. In addition, it should be noted that the provisions of Section 5, under which low rent public housing entitlements receive zero payment at the Tier II level, are allowed to expire at the end of FY 1979.

P.L. 95-561 also modifies the eligibility criteria for heavily impacted or "super 3(a)" districts (those in which 25 percent or more of total average daily attendance -- TADA -- consists of Section 3(a) children). Effective FY 1980, the Section 3(a) attendance requirement is reduced to 20 percent of TADA. In addition, the increased payment schedule for "super 3(a)" districts will also apply to 3(b) military children.

The Section 3(b) absorption provision is repealed effective FY 1979. This provision had required districts to absorb the educational expenses of some of their Section 3(b) children where the total number of 3(b) children is less than 10 percent of TADA or where dependency on Section 3 funds for total current expenditures is less than 25 percent.

Several definitions are changed as follows: "Federal property" is amended to include property of foreign governments or international

organizations, effective FY 1980; "local educational agency" is amended to exclude community colleges and other post-grade 12 institutions, effective FY 1980; and "average daily attendance" is amended to include handicapped children who are placed in private institutions, effective FY 1979.

Section 305 of P.L. 93-380, the Education Amendments of 1974, contains four hold harmless or savings provisions which affect the final payment under P.L. 81-874. Briefly these provisions: (A) provide for a minimum payment of 90 percent of a district's previous year Section 3 allocation; (B) apply to districts whose Section 3 entitlements are reduced because of a cessation or reduction of military installations; (C) apply to districts whose entitlements are based on Section 3 provisions for children whose parents are employed out-of-county or out-of-State; and (D) concern entitlements based on children living in low rent housing. P.L. 95-561 extends hold harmless provisions (B) and (C) through the end of FY 1983 and allows provisions (A) and (D) to expire at the end of FY 1978.

Various procedural changes are also made by the P.L. 95-561 which relate to State equalization plans, Section 6 military schools, disaster assistance payments and preliminary program payments.

Finally, P.L. 95-561 authorizes a study of the impact aid program which includes the evaluation and review of the equity of the present funding structure, relative benefit of program assistance, and ways in which federally impacted districts can be assisted in meeting their educational needs. The study is to be completed by December 1979.

Part B - Public Law 815

Public Law 81-815, which authorizes school construction in areas affected by Federal activities, is extended through FY 1983. The P.L. 95-561 amendments modify the entitlement rates which are used to determine school construction payments to conform to the percentages used to calculate the Section 3, P.L. 81-874 entitlements.

Title XI - Indian EducationPart A - Assistance to Local Educational Agencies

Public Law 874, 81st Congress -- school assistance in federally affected areas, operations and maintenance payments ("impact aid") -- is amended to provide that payment entitlements for LEA's shall be increased by 25 percent for children who reside on Indian lands. Such additional payments on entitlements may be made only if the LEA's provide for involvement of tribes and parents in the education of Indian children. Also required are detailed practices for handling complaints by Indian tribes against recipient LEA's regarding the education of Indian children.

The Secretary of the Interior is directed to develop alternative methods for the equitable distribution of supplemental funds appropriated under the Snyder Act (Act of November 2, 1921) for contracting under the Johnson-O'Malley Act (Act of April 16, 1934), for consideration by Indian tribes. The distribution formula favored by a majority of the tribes shall be used for the distribution of the funds after October 1, 1979. Sums already appropriated for basic support under these

Acts for fiscal year 1978 shall be used to make payments to schools notified by the Secretary of the Interior of grant or contract awards. Additional sums are also authorized to be appropriated for basic educational support for Indian children through parent committees.

Part B - Bureau of Indian Affairs Programs

Comprehensive provisions for the operation of Bureau of Indian Affairs (BIA) Indian education programs are enacted. Minimum academic standards for the basic education of Indian children attending BIA or Indian-controlled contract schools are to be established by the Secretary of the Interior within eighteen months of the enactment of P.L. 95-561, after consultation with the Assistant Secretary (of HEW) for Education, and Indian tribes and organizations, and conducting of any necessary studies or surveys. Within one year of the establishment of these standards, and annually thereafter, the Secretary shall submit to Congress a plan to bring the level of all BIA and Indian-controlled contract schools up to these standards. "Such sums as may be necessary" are authorized to be appropriated for this purpose. Similar criteria are to be established and implemented for boarding arrangements for Indian pupils in such schools, and for the construction of facilities, with indefinite appropriations authorizations associated with each.

All Indian education functions of the BIA shall be vested in the Assistant Secretary for Indian Affairs, and carried out through the Director of the Office of Indian Education Programs.

Funds appropriated for the general operation of each BIA and contract school are to be allocated in accordance with an allotment formula

to be established by the Secretary of the Interior (with allowance for supplemental funds in emergency situations), through a system of direct funding or support.

The BIA shall "facilitate Indian control of Indian affairs in all matters relating to education" (Sec. 1130).

Detailed provisions regarding the appointment, compensation, and other conditions of employment of education personnel for BIA and contract schools are included in Title XI, Part B. Such employment of education personnel is to be governed by regulations of the Secretary of the Interior, established in accordance with these provisions of P.L. 95-561. Included is to be a policy for recruitment of qualified Indian educators. Additional provisions regarding BIA education programs require the creation of an automated management information system, uniformity of procedures and practices for BIA education program operations, the submission of an annual report to the Congress, a plan to promote employees from within the BIA, the prescribing of regulations on Indian student rights, and the application of requirements of the General Education Provisions Act (Title IV, P.L. 90-247, as amended) to regulations for BIA education programs.

Part C - Indian Education Provisions

Parts A, B, and D of the Indian Education Act (Title IV, P.L. 92-318, as amended) are extended through FY 1983. This includes programs for the education of Indian children under Title III of P.L. 874, 81st Congress, and under Sec. 1005 (previously Sec. 810) of the ESEA; fellowships for Indian students; and authorization for a National Advisory Council on Indian Education.

The Indian Elementary and Secondary School Assistance Act (Part A of the Indian Education Act) is amended through authorization of a new program of grants to LEA's for demonstration projects (authorization level equal to 10 percent of payments otherwise authorized); provision for re-allocation of funds; and the addition of "culturally related academic needs" to the special education needs to be met by this program.

The Assistant Secretary for Education is directed to conduct a study of the definition of the term "Indian" as used in the Indian Education Act. Specific data collection and program monitoring provisions are outlined for activities assisted under the Act.

Sec. 1005 of the ESEA (as redesignated under P.L. 95-561) is amended to expand the range of educational activities eligible for assistance; to authorize the establishment of regional centers to conduct evaluations, disseminate information, and provide technical assistance regarding Indian education programs (authorized level of \$8 million per year); and to require that assistance under Sec. 1005 be used to supplement, not supplant, funds available from other sources.

Title XII - Administrative Provisions

Part A - Equalization

In this Part are provisions for activities related to the issue of school finance equalization. Two amendments are made to the General Education Provisions Act, or GEPA (Title IV, P.L. 90-247, as amended). The National Center for Education Statistics is directed to collect uniform data from the States on the financing of elementary and secondary

education, and publish "profiles" for each State showing the degree of equalization of resources among the State's school districts, according to specified standards. Also, a new Sec. 426A is added to the GEPA, under which matching grants are authorized ^{25/} to be made to States for development and implementation of plans to foster school finance equalization. The Office of Education shall disseminate information on States' efforts to achieve this purpose, including an analysis of the products of activities funded under Sec. 842 of the Education Amendments of 1974 (Assistance to States for State Equalization Plans).

Under Sec. 1203 of P.L. 95-561, there is established within the Department of HEW an Advisory Panel on Financing Elementary and Secondary Education, composed of fifteen Presidentially appointed members. This Panel is to provide advice to the Secretary of HEW regarding studies on the topic of school finance which the Secretary is directed to conduct. These studies, to be carried out in accordance with a plan submitted to the Congress, are to consider "(1) the prospects for adequate financing of elementary and secondary schools during the ten year period from October 1, 1979 through September 30, 1989, and (2) the distribution of financial resources for elementary and secondary education among the States, among school districts within the States, and among schools within school districts" (Sec. 1203(d)). A final report on the results of these studies is to be submitted by December 31, 1981, and is to include recommendations for legislation.

25 At a level of \$4 million for each fiscal year through 1983.

Part B - Paperwork Control

A new Sec 400A -- Control of Paperwork -- is added to the General Education Provisions Act, providing for coordination by the Secretary of HEW, assisted by a Federal Education Data Acquisition Council, of the collection of data from educational institutions or agencies by all Federal agencies, if the data are related to Federal education programs. The purpose of such coordination is to promote the collection of information in the most efficient manner available. The Secretary of HEW is to advise the head of any Federal agency proposing to collect data from educational institutions, whenever he determines that such collection would be "excessive in detail, unnecessary, redundant, ineffective, or excessively costly" (Sec. 400A(a)(3)(A) of the GEPA). Generally, requests for data must be publicly announced by February 15 of the year preceding the school year during which collection is to take place.

The Secretary of HEW is to provide educational agencies and institutions with summaries of data collected by Federal agencies (if not confidential); promote uniformity in the collection of educational data by Federal agencies; and develop a system for cataloging available data. The Secretary is authorized to make grants to State education agencies for the improvement of management information systems. He shall submit a report on the implementation of these provisions to the Congress at least every three years.

The primary exceptions to the provisions of GEPA Sec. 400A are that they are not to be construed to interfere with enforcement of

the Civil Rights Act of 1964 (or other Federal non-discrimination legislation); and waivers may be granted for certain non-recurring studies, participation in which is voluntary.

A new Sec. 430 is added to the GEPA, under which the Commissioner is directed to require the use ("insofar as is practicable") of common applications for assistance by LEA's to State education agencies and to the U.S. Office of Education; and establish uniform dates for the submission and approval of applications. He is also authorized to provide for the submission of applications to cover a period of three years.

Part C - Federal, State and Local Responsibilities

The existing Sections 434 (Administration of Education Programs and Projects) and 436 (Authority to Vest Title to Equipment) of the General Education Provisions Act are deleted, and replaced by a new Subpart 3 of GEPA Part C, entitled "Administration of Education Programs and Projects by States and Local Educational Agencies". In this Subpart are included provisions for program monitoring and regulation enforcement by State education agencies; and authorization for single (general) applications by States to the U.S. Office of Education, and by LEA's to the State education agency, for programs administered through State education agencies. The general applications authorized above are to contain all necessary assurances for the proper administration of the programs covered, and shall remain in effect for the duration of each program (unless circumstances are significantly changed).

GEPA Part C is amended through addition of a new Sec. 437 ("Records"), detailing requirements for the keeping of records by grant recipients, in order to facilitate program audits.

The final provision of Part C of P.L. 95-561 is the addition of a Part E -- Enforcement -- to the General Education Provisions Act.

Under this Part are outlined provisions for the disposition of audit determinations, withholding of funds for failure to comply with legal requirements associated with a program, orders to "cease and desist" activities which are not in compliance with program requirements, for judicial review of these actions, and for the use of any funds recovered thereby (including authorized repayment to the original recipient).

There is established in the U.S. Office of Education an Education Appeal Board, which shall conduct hearings with regard to audits, fund withholdings, cease and desist orders, and related proceedings by the Commissioner.

Part D - General Administrative Provisions

There is established within the U.S. Office of Education an Office of Non-Public Education, to be headed by a Deputy Commissioner, to promote maximum participation by children attending such schools in programs for which they are eligible.

A National Assessment of Educational Progress, previously conducted without specific legislative authorization, is explicitly provided for in an amendment to Sec 405 of the GEPA, as an addition to the responsibilities of the National Institute of Education. The Assessment is to be conducted by a non-profit organization (it has previously been carried

out by the Education Commission of the States), with the project designed and supervised by an Assessment Policy Committee. Assessment data are to be collected and reported at least once every five years, and are to cover the reading, writing, and mathematics performance of pupils at various age or grade levels. For each of the fiscal years through 1983, \$10.5 million is authorized to be appropriated for this purpose.

The authorization of appropriations for the National Center for Education Statistics (under Sec. 406 of the GEPA) is extended through FY 1983, at a total of \$44 million per year.

The provisions for obligation and expenditure of Federal funds by educational agencies and institutions during the fiscal year succeeding that for which they were appropriated (under Sec. 412(b) of the GEPA) is extended indefinitely (through removal of a limitation date of October 1, 1979). Funds used during such succeeding year shall be obligated and expended in accordance with program provisions for the succeeding year.

The provisions of Sec 431A of the GEPA -- Maintenance of Effort Determination -- are replaced. These provisions apply to the requirements that no grants be made under Parts B and D of ESEA Title IV (Instructional Materials and School Library Resources; Guidance, Counseling, and Testing) or the Adult Education Act, to a State in which the non-Federal funds available for the appropriate purpose are less than those available for the preceding or second preceding year (hence, that non-Federal efforts for the purposes of these programs be maintained).

(Note: the provisions of GEPA Sec. 431A no longer apply to Title I of the Elementary and Secondary Education Act.) The Commissioner is authorized to waive the maintenance-of-effort requirements for these programs in cases of exceptional and unforeseen circumstances, for one fiscal year only. If a waiver is granted, the allocation to the affected State is to be reduced in the same proportion by which non-Federal expenditures fell below those required.

Finally, Sec. 439 of the GEPA, Protection of Pupil Rights, is amended. No student is to be required to undergo psychological or psychiatric testing or treatment as part of a Federal education program.
26/

Title XIII - Revision of Other Education Programs

Part A - Adult Education

The Adult Education Act (AEA; Title III of P.L. 89-750, as amended) is amended and extended through fiscal year 1983. Included in the extension are the basic grants to States, special projects for the elderly; grants for research, development, dissemination, evaluation, and an information clearinghouse; a National Advisory Council on Adult Education;
27/ and educational programs for adult Indians and adult Indo-Chinese refugees. The following amounts are authorized to be appropriated for AEA programs.

26/ Specifically prohibited is such testing or treatment, the primary purpose of which is to reveal information concerning: political affiliations, potentially embarrassing mental or psychological problems, sex behavior or attitudes, illegal or anti-social behavior, critical opinions about family members, legally recognized privileged relationships, or, without appropriate consent, income.

27/ Extended through FY 1984.

Appropriations Authorizations for the Adult Education Act, FY 1979-1983

	<u>FY 1979</u>	<u>FY 1980</u>	<u>FY 1981</u>	<u>FY 1982</u>	<u>FY 1983</u>
General authorization (for all purposes not specified below)	\$210,000,000	\$230,000,000	\$250,000,000	\$270,000,000	\$290,000,000
Special projects for the elderly	"Such sums" ^{28/}	"Such sums"	"Such sums"	"Such sums"	"Such sums"
Research, development, dissemination, evalua- tion, and information clearinghouse	—	1,500,000	2,000,000	3,000,000	3,000,000
Educational opportuni- ties for adult Indians	8,000,000	8,000,000	8,000,000	8,000,000	8,000,000
Adult education program for immigrants	"Such sums"	"Such sums"	"Such sums"	"Such sums"	"Such sums"
State administration	5% of general authorization <u>29/</u>	<u>29/</u>	<u>29/</u>	<u>29/</u>	<u>29/</u>

28/ "Such sums as may be necessary"

29/ 5 percent of the general authorization (first line above), with State allotments to be at least \$50,000 (\$25,000 for Territories).

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The Adult Education Act is amended to provide: that no more than 20 percent of State grants be used for the education of institutionalized individuals; for revised State plan requirements; for specific authorization of research, development, evaluation, and information dissemination activities under the Act (including research by the National Institute of Education); and for a new program for adult immigrants.

Part B - Higher Education

Part B of the Higher Education Act of 1965, Teacher Training Programs, is amended through an increase in the appropriations authorized for FY 1979 from \$75 million to \$100 million; and a provision that whenever annual appropriations for the Part exceed \$50 million, each State must receive funds sufficient for at least one Teacher Center (under Sec. 532 of the Higher Education Act).

Part C - Indochinese Refugee Children

The Indochinese Refugee Children Assistance Act of 1976 (P.L. 94-405) is extended through fiscal year 1981,^{30/} with an entitlement ceiling of \$450 per refugee child. Payments during the period of this authorization extension are to be made only on behalf of refugee children paroled into the U.S. on or after January 1, 1977. The authorization for State administration payments is increased from 1 percent to 5 percent of State entitlements.

^{30/} Program activities are provided for through FY 1981, but appropriations are authorized through FY 1982.

Part D - Education of the Handicapped

Part B of the Education of the Handicapped Act (Title VI, P.L. 91-230, as amended) -- Assistance for Education of All Handicapped Children -- is amended to provide that counts of the number of handicapped children used for fund entitlement and allocation purposes shall be made on December 1 of the preceding fiscal year. (Previously, the count used was to be an average of counts taken on October 1 and February 1 of the preceding fiscal year).

Part E - Guidance and Counseling

The program of assistance for guidance and counseling activities authorized under Title III, Part D of the Education Amendments of 1976 (P.L. 94-482) is extended through fiscal year 1983.

Title XIV - Overseas/ Defense Dependents' Education

Comprehensive authorization for the existence and activities of the Department of Defense Dependents' Education System is provided in Federal education legislation for the first time, for the purpose of providing an education of high quality (including programs for those with special needs) for such children. The system is to be administered by an Office of Dependents' Education, directed by a civilian, in the Department of Defense.

If space is available, children who are not dependents of Department of Defense personnel may be allowed to attend the schools authorized under this Title, on a tuition basis. An assessment of the performance of the system is to be undertaken annually. Payment for

travel of overseas dependents to dormitory schools is authorized, as is payment of tuition for overseas dependents for whom a Department of Defense school is not available.

The National School Lunch Act and the Child Nutrition Act of 1966 are amended to provide for participation by Department of Defense overseas dependents' schools in the school lunch and breakfast programs authorized under these Acts. Income eligibility standards for participation in these programs in the dependents' overseas schools will be prescribed by the Secretary of Defense.

Funds are to be made available for the operation of these schools on the basis of an allotment formula to be developed by the Secretary of Defense. An elected advisory committee is to be provided for at each Department of Defense dependents' school, composed of equal numbers of sponsors of students and of employees (and may include a student). There is also to be established an Advisory Council on Dependents' Education in the Department of Defense. A comprehensive study of the dependents' education system is required to be conducted, by a contractor selected by the Director of Dependents' Education, with the results thereof to be submitted to Congress by July 1, 1980.

The provisions of this Title are not intended to interfere with any provisions which might later be enacted for the creation of a Department of Education.

Title XV - Miscellaneous Provisions

Part A - International Year of the Child

In recognition of the designation of 1979 as the International

Year of the Child by the United Nations General Assembly, a National Commission on the International Year of the Child is established.

The Commission is to consist of 25 Presidential appointees, plus two Members of the Senate and the House of Representatives. The Commission is to promote the observance of the International Year of the Child, and make recommendations to the President on policies to further the goals of the Year. The powers granted to the Commission are in addition to those provided under Executive Order 12053. The Commission is to make its final report to the President no later than March 31, 1980, and to terminate within thirty days thereafter. "Such sums as may be necessary" are authorized to be appropriated for the purposes of this Part.

Part B - National Academy of Peace and Conflict Resolution

A Commission on Proposals for the National Academy of Peace and Conflict Resolution is established, to consider issues related to the possible establishment of such an Academy. The Commission is to consist of nine members, three appointed by each of the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate. Appropriations to carry out this Part are authorized in the amount of \$500,000. A final report is to be submitted to the President and the Congress within one year after appropriations become available, and the Commission shall terminate sixty days thereafter.

Part C - Miscellaneous Amendments; Effective Dates

The Secretary of Commerce is directed to provide data from the 1980 Census for those under eighteen years of age on a school district basis, including available information on family characteristics.

The Commissioner of Education is directed to conduct a study of procedures for evaluation of Federal elementary and secondary education programs, and make recommendations based thereon for modification of current practices.

Appropriations are authorized for: general assistance to improve public education in the Virgin Islands (\$5 million for each of FY 1979-1983); aid to teacher training programs in the Outlying Areas (\$2 million for each of FY 1979-1983); and assistance to local educational agencies for the purpose of overcoming educational disadvantages associated with minority group isolation (\$1.2 million for each fiscal year through FY 1981).